

Costs Decision

Site visit made on 10 October 2016

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th January 2017

Costs application in relation to Appeal Ref: APP/C5690/W/16/3155355 Unit 12, Excelsior Works, Rollins Street, London SE15 1EP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Terence Williams (Terence Williams Design) for a full award of costs against Council of the London Borough of Lewisham.
 - The appeal was against the refusal of planning permission for 'demolition of existing single storey workshop with ancillary office at mezzanine level, replaced with new 4 storey building, gallery and workshop to the ground floor, six 1B/2P residential units (first-third floor) and rooftop solarium over'.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Policy Guidance advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The appellant states that the Council has failed to provide evidence to substantiate its reason for refusal. I consider, however, that the Council has provided adequate reasoning in both its appeal statement and in the officer's report in response to the application. Whilst it is limited on detail in some respects, such reasoning sets out what the Council considers to be the relevant development plan background and how it relates to the proposal and the reasons why it considers the proposal to be contrary to the development plan, including the requirement for comprehensive development. As set out in the separate appeal decision, I have found the proposal to be in conflict with the development plan and harmful, and whilst its evidence is not particularly lengthy, the Council has provided satisfactory justification for its reason for refusal.
 4. In considering the proposal I do not consider it absolutely necessary for the Council to give a clear indication of how an alternative scheme could be produced which would make a better use of the site. It has to make a decision based on the information before it, which it has done, explaining why it has done so in its planning statement and officer's report. In respect of Rollins House, whilst it has expressed reservations about the previously withdrawn
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scheme, I do not consider that this leads to the conclusion that the Council is opposed in principle to any form of development taking place in respect of it. I do not therefore consider that the Council has acted unreasonably with regard to the evidence it has provided in this regard.

5. The appellant's second ground for costs relates to vague, generalised or inaccurate assertions. Whilst I have dismissed the appeal, I acknowledge that the appellant has sought to demonstrate that the appeal proposal is compliant with the Council's aims for the Surrey Canal Triangle. Therefore I find the Council's statement in respect of the proposal not making reference to the emerging context not to be accurate in this respect, though given its overall concerns in relation to the scheme relationship with future surrounding development, which have been satisfactorily stated, on the balance of probability, I do not consider that this has resulted in the appellant incurring unnecessary expense.
6. The matter of compliance with the master plan is complicated by Rollins House and the appeal site being shown to be retained. As set out in my appeal decision letter, there is some uncertainty over the future of Rollins House and, given the need for a comprehensive development of the area, I do not consider the Council to be unreasonable in seeking to ensure that the development of this part of the site is considered as a whole. Whilst a previous application was withdrawn there is no indication that another scheme will not come forward. Although each planning application needs to be considered on its merits, the relationship of the site's surroundings in the context of future development represents a valid consideration, particularly given the overall policy background to this case regarding the strategic importance of the Surrey Canal Triangle regeneration area.
7. The Council has raised the issue of precedent, which I do not find to be unreasonable given its concern to prevent other developments which do not accord with the development plans aims for a comprehensive form of development.
8. The Council appears to have justified its view on development potential based on the potential of the wider site. Though there is little detail to back up this assertion, the Council's case is sufficient on this matter.
9. Regarding discussions between the parties, from the evidence before me it is not possible for me to come to a definitive conclusion, though in any case, I do not consider the Council's statement in this regard to be of significance in my conclusions on this costs application as to whether unreasonable behaviour has resulted in unnecessary expense.
10. In relation to the details of how the proposals would work in the surrounding context, I acknowledge that indicative details have been provided within the appellant's case including in the Design and Access Statement. Nevertheless, the Council goes on to clarify that the submitted plans are lacking in information. Whilst the Council does not go on to be more specific on what information should be provided, it is clear from the Council's overall representations that it does not consider the application to have demonstrated how the scheme would properly fit with the proposals for the wider area. I share these concerns as set out in my appeal decision letter.

11. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

David Cliff

INSPECTOR